

Application No.: 09/961,395
Attorney Docket No.: 021123-0265258

REMARKS

I. Status of the claims

Claims 1-5, 7-9, 11, and 13-21 are pending. Claim 12 has been cancelled and new claims 20 and 21 have been added. Independent claims 1 and 8 have been amended to limit the concentration of the sodium compound and remove the optional complexing agent. The removed complexing agent is recited in new dependent claims 20 and 21. Claim 2 has been amended to remove the limitation relating to the sodium compound in view of the amendment to claim 1. Minor amendments that should not affect the scope of the claims have also been made to claims 4, 5, 7, 16, and 17. No new matter has been introduced through these amendments and new claims.

The amendments made in this response either maintain or limit the scope of the claims previously presented. Therefore, Applicants respectfully request that the examiner enter the claims, as a new search would not be required.

II. Declaration under 37 C.F.R. § 1.132 by Jakob

In the Office Action, the examiner states that the declaration by Dr. Jakob has been considered, but that it is insufficient to overcome the outstanding rejections. Applicants respectfully request that the examiner reconsider claimed invention in view of the amendments and remarks presented in this response as well as in view of the declaration and remarks previously presented.

On page 2, paragraph 1 of the Office Action, the examiner states that the unexpected results set forth in the declaration relate to a range of Mg^{2+} concentration between 125 and 1000 ppm, and suggests that this range be incorporated into the independent claims. Per the examiner's suggestion, the independent claims have been amended to recite an Mg^{2+} concentration from 125 to 1000 ppm.

On page 2, paragraph 3 of the Office Action, the examiner also suggests that the independent claims be limited to the combination resulting from the synergistic effect of the magnesium compound and the waterglass, specifically noting that a list of complexing agents (ii) may be substituted for the magnesium compound. Per the examiner's suggestion, the independent claims have been amended to remove the complexing agent.

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On page 2, paragraph 2 of the Office Action, the examiner notes the table on page 2 of the declaration and states that it is not known to what extent the time affects the measured TAM value. The time, as stated in the declaration, relates to the experimental time taken to dissolve the samples. These times are not related to the method of performing the TAM measurement, but relate to a different property of the sample. All TAM measurements were carried out in the same manner as described in the application after storage at 40° C for 48 hours. This is confirmed in the declaration when Dr. Jakob states that "All experiments were carried out using the same starting materials and conducted at the same process conditions as those disclosed on page 9-10 of the specification." See paragraph 4 of the declaration. The values for the dissolving time were presented to provide experimental data of the same scope as provided in Table 3 of the application.

III. Outstanding Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 5, 7-9, and 11-19 remain rejected by the examiner under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,560,896 to Bewersdorf et al. ("Bewersdorf '896") in view of U.S. Patent No. 5,714,201 to Bewersdorf et al. ("Bewersdorf '201"); claims 1-3, 5, 7-9, and 11-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bewersdorf '896 in view of U.S. Patent No. 4,428,914 to Brichard et al. ("Brichard") and further in view of Bewersdorf '201; and claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bewersdorf '896 in view Brichard and further in view of Bewersdorf '201, or Bewersdorf '896 in view of Bewersdorf '201 and further in view of U.S. Patent No. 6,413,927 to Horne et al. ("Horne").

Applicants believe that the outstanding rejections are overcome in view of the amendments and remarks presented in this response in view of the remarks and declaration already on the record. Accordingly, Applicants respectfully request that the examiner withdraw the outstanding rejections under 35 U.S.C. § 103(a).

IV. Conclusion


Applicants believe that the amendments place the application in condition for allowance or in better condition for appeal. Entry of the amendments and reconsideration of the application is respectfully requested.

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Should any issues remain unresolved, the examiner is encouraged to contact the undersigned attorney for the applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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